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BEFORE THE ARIZONA CORPORATION COMMISSION

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MR

COMMISSIONERS

BOB STUMP, Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
SUSAN BITTER SMITH

IN THE MATTER OF MIDVALE TELEPHONE
EXCHANGE INC.'S APPLICATION FOR AN
AMENDMENT TO ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY.

DOCKET NO. T-02532A-08-0542

PROCEDURAL ORDER

BY THE COMMISSION:

On October 17, 2008, Midvale Telephone Exchange Inc. ("Midvale") filed with the Arizona Corporation Commission ("Commission") an application for an amendment to its Certificate of Convenience and Necessity ("CC&N"), to include customer locations within Qwest Communication Corporation's ("QCC's") service area. In the application, Midvale stated that it desired Commission authorization to provide facilities-based local exchange service and toll service to two currently unserved customers located in an area of Yavapai County immediately contiguous to the Long Meadows portion of Midvale's Mill Site Exchange ("requested extension area").

On November 12, 2008, Qwest Corporation ("Qwest") filed a notice indicating that it had accepted service of process of Midvale's application, as it was Qwest rather than QCC that was providing local exchange telecommunications services in the requested extension area. Qwest also requested that the service list for this matter be revised to include Qwest and exclude QCC.

On November 14, 2008, the Commission's Utilities Division Staff ("Staff") issued a Letter of Insufficiency to Midvale, along with a request for additional data.

On May 7, 2010, a Procedural Order was issued requiring Staff to file an update on the status of this matter, including any appropriate recommendations as to how the matter should be resolved and a statement regarding whether the matter should be administratively closed.

On May 12, 2010, Midvale filed an amended application, in which Midvale continued to identify QCC as the provider for the service area including the requested extension area. Midvale stated that the amended application changed the description of the requested extension area and

1 provided updated loop/line counts. Subsequently, Midvale filed a revised legal description for the
2 requested extension area.

3 On May 26, 2010, Staff filed a Staff Update stating that Staff was reviewing Midvale's
4 application and would process it.

5 On June 14, 2010, Midvale filed Responses to Staff's First Set of Data Requests.

6 On June 29, 2010, Staff filed a Letter of Sufficiency stating that Midvale's amended
7 application had met the sufficiency requirements of A.A.C. R14-2-502 and that the Commission had
8 150 calendar days to complete its substantive review.

9 On July 1, 2010, a Procedural Order was issued requiring Qwest, by July 30, 2010, to file a
10 document either requesting to be added to this docket as a joint applicant or explaining why it was
11 not necessary for Qwest to participate as a party herein. The Procedural Order further permitted
12 Midvale and Staff to make filings providing input on the need for Qwest to participate as a party
13 herein and extended the Commission's time frame to issue a decision in this matter by 30 days.

14 On July 30, 2010, Qwest filed Qwest Corporation's Motion to Be Added as a Necessary
15 Party, and Statement of Position, in which Qwest requested to be added as a necessary party in
16 interest to this proceeding and not to be designated as a joint applicant. Qwest stated that Qwest
17 supported Midvale's application and that Qwest was willing to participate and fully cooperate in the
18 proceeding, but that Qwest was not the moving entity and did not believe that it should be required to
19 bear the costs of the proceeding. Qwest also noted that Qwest and Midvale had agreed that the
20 circumstances underlying Midvale's application also existed or could arise with other portions of
21 Qwest's Prescott Exchange bordering Midvale's existing service area. Qwest stated that Midvale and
22 Qwest had agreed that it would be more efficient to address these circumstances comprehensively in
23 this proceeding by including additional portions of Qwest's Exchange that could be served more
24 economically by Midvale. Qwest also stated that it understood Midvale was preparing to amend its
25 application again.

26 On August 11, 2010, a Procedural Order was issued joining Qwest as a necessary party in
27 interest in this matter and suspending the time frame in this matter until Midvale filed with Docket
28

1 Control either another amendment to its application or a document stating that it was ready to go
2 forward with its application as it stood.

3 On November 15, 2010, Midvale filed a Second Amended Application, in which it again
4 identified QCC as the holder of the service area in which the requested extension area was located
5 and amended the requested extension area by requesting expansion of its CC&N service area to
6 include all of Section 13, Township 16N, Range 4W (rather than only the southeast quarter of the
7 Section); the southern one-half and northwest one-quarter of Section 23, Township 16N, Range 4W
8 (rather than only part of the southeast one-quarter of Section 23); and the following additional
9 territory:

10 Within Township 16N, Range 4W: The western one-half of Section 22, the
11 southern one-half and northwest quarter of Section 15, the northern one-half and
12 southwest quarter of Section 14, all of Section 1, all of Section 2, all of Section
13 11, and all of Section 12; and

14 Within Township 16N, Range 3W: The western one-half of Section 20, and all of
15 Section 17 except for the Hootenanny Holler Development and that portion of
16 Section 17 north of Williamson Valley Road.

17 On November 16, 2010, a Procedural Order was issued requiring Qwest to file a response to
18 Midvale's Second Amended Application, requiring Staff to file a document regarding the sufficiency
19 of Midvale's Second Amended Application, and suspending the time frame in this matter.

20 On December 7, 2010, Staff filed Staff's Second Letter of Insufficiency and Second Set of
21 Data Requests.

22 On December 15, 2010, Midvale filed an amended Attachment C to its Second Amended
23 Application, which included a legal description.

24 On January 4, 2011, Qwest filed its response to the Second Amended Application, stating that
25 the legal description in the amended Attachment C to the Second Amended Application was correct;
26 that Qwest was the local exchange service provider of record in the affected areas; and that Qwest
27 consented to the transfer of the requested extension area to Midvale, for the reasons stated in Qwest's
28 Motion filed on July 30, 2010.

29 No additional filings were made in this docket until December 16, 2011, when a Procedural
30 Order was issued requiring Midvale and Qwest to make filings providing their current positions in the

1 matter and proposals for how the matter should proceed and requiring Staff to make a filing in
2 response and including a recommendation as to how this matter should proceed.

3 On January 6, 2012, in Docket No. T-02532A-10-0207 et al., Decision No. 72728 was issued
4 approving a Midvale request to transfer its assets, liabilities, and customers to Midvale Telephone
5 Company, Inc. ("MTCI") and transferring to MTCI both Midvale's CC&N for facilities-based local
6 exchange telecommunications services and Midvale's Eligible Telecommunications Carrier ("ETC")
7 designation.

8 On January 17, 2012, Qwest dba CenturyLink-QC ("CenturyLink") filed its response to the
9 December 2011 Procedural Order, stating that its position in this matter had not changed and that it
10 continued to support the proposed transfer of territory as set forth in the Second Amended
11 Application, as amended by Midvale's Attachment C included in the filing of December 15, 2011
12 [sic].¹ CenturyLink added that it believed this matter should proceed in typical fashion, with a Staff
13 Report, followed by a brief hearing after notice to affected customers.

14 On January 30, 2012, MTCI fna Midvale filed its response to the December 2011 Procedural
15 Order, stating that MTCI desired to seek transfer of the territory in the Second Amended Application,
16 as amended by Midvale's Attachment C included in the filing of December 15, 2011 [sic].² MTCI
17 stated that it believed the matter should move forward with a Staff Report, notice to Midvale's
18 customers, and a short hearing. MTCI also stated that it would not object to having the matter
19 proceed to Open Meeting without a hearing.

20 On February 17, 2012, Staff filed its response to the December 2011 Procedural Order, stating
21 that Staff agreed that the matter should proceed, but had not yet received Midvale's response to
22 Staff's Second Letter of Insufficiency and Second Data Request. Staff recommended that, in order to
23 move forward, Midvale file its response to the Second Data Request and all future Data Requests in
24 an expeditious manner, to allow Staff to make a sufficiency finding and complete its analysis. Staff
25 stated that it agreed with the process described by CenturyLink in its January 2012 filing.

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28 ¹ This is understood to mean December 15, 2010.

² This is understood to mean December 15, 2010.

1 More than a year has now passed without any additional filings in this matter. As of this date,
2 Midvale's original application is approximately four and one-half years old, its Second Amended
3 Application is approximately two and one-half years old, and neither Midvale nor Qwest has the
4 same organizational structure and affiliations that it did when the original application was filed. It is
5 possible that the information on file for this matter may be sufficiently stale that this docket should be
6 administratively closed and MTCI should be required to file a fresh application if MTCI still desires
7 for a transfer to be approved.

8 However, before such an action is taken, the parties should again be required to express their
9 current positions as to this matter and how it should be resolved, specifically addressing whether this
10 docket should be administratively closed.

11 IT IS THEREFORE ORDERED that **MTCI shall, by May 10, 2013**, file a document
12 providing MTCI's current position in this matter and MTCI's proposal for how this matter should be
13 resolved, specifically addressing whether this docket should be administratively closed.

14 IT IS FURTHER ORDERED that **CenturyLink shall, by May 10, 2013**, file a document
15 providing CenturyLink's current position in this matter and CenturyLink's proposal for how this
16 matter should be resolved, specifically addressing whether this docket should be administratively
17 closed.

18 IT IS FURTHER ORDERED that **Staff shall, by May 31, 2013**, file a document responding
19 to the MTCI and CenturyLink filings and recommending how this matter should be resolved,
20 specifically addressing whether this docket should be administratively closed.

21 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules
22 31 and 38 and A.R.S. § 40-243 with respect to the practice of law and admission *pro hac vice*.

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1 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,
2 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
3 hearing.

4 DATED this 9th day of April 2013.

6
7 
8 SARAH N. HARPRING
ADMINISTRATIVE LAW JUDGE

9 Copies of the foregoing mailed/delivered
10 this 9th day of April, 2013, to:

11 Gary H. Horton
12 Attorney at Law
13 PMB 447
14 989 South Main Street, Suite A
15 Cottonwood, AZ 86326


16 Midvale Telephone Company, Inc.
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By:

26 
27 Debbi Person

28 Assistant to Sarah N. Harpring